

FILED: October 23, 2020

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 20-6330**  
**(5:14-cr-00244-1; 5:18-cv-00591)**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DONALD L. BLANKENSHIP,

Defendant - Appellant.

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O R D E R

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Donald L. Blankenship seeks to appeal the district court's order rejecting the magistrate judge's recommendation and denying relief on Blankenship's 28 U.S.C. § 2255 motion. Upon review, we grant a certificate of appealability on Blankenship's claim that, in violation of *Brady v. Maryland*, 373 U.S. 83 (1963), the Government suppressed material, favorable evidence, to wit: (1) memoranda of interviews of five former Massey Energy Company employees—Mark Clemens, Steve Sears, Sabrina Duba, Charlie Bearse, and Stephanie Ojeda—who did not testify at Blankenship's trial; (2) memoranda of interviews of two former Massey employees—Chris Blanchard and Bill Ross—who did testify at trial; and (3) documentary evidence, from the Mine Safety & Health

Administration, pertaining to the issues of advance notice, agency bias, and disciplinary actions. The Clerk shall enter a final briefing schedule by separate order.

For the Court

/s/ Patricia S. Connor, Clerk